



Official Minutes of the City of Cottonwood  
Planning & Zoning Commission Meeting  
Held March 16, 2009 at 6:00 PM at the Council Chambers  
826 N. Main Street - Cottonwood, Arizona

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**Call to Order**

Chairperson Kiyler called the meeting to order at 6:00 PM.

**Roll Call**

Chairperson Kiyler	Present	Member Gonzales	Present
Vice Chair Lovett	Present	Member Kevin	Present
Member Cox	Present	Member Smith	Present
Member Dixon	Present		

**Staff Present:**

George Gehlert, Community Development Director  
Charlie Scully, Planner  
Carol Hulse, Planning Technician

**Public Present:**

Terri Gage	Karl Priggee	Dr. Bob Richards
Randy Victory	Jean Ellen Wilder	

**CALL TO THE PUBLIC**

There was no response.

**APPROVAL OF MINUTES OF FEBRUARY 23, 2009**

***Motion:***        ***To accept the minutes of February 23, 2009 as written.***

***Moved by:***    ***Kevin***

***Second:***      ***Gonzales***

***Vote:***         ***Unanimous approval.***

**UNFINISHED BUSINESS**

1. **RCU 07-037** Review a Conditional Use Permit to allow aggregate material processing utilizing imported materials on 5 acres (approx.) of a 65-acre parcel located on Happy Jack Way west of Hwy. 89A and south of Mingus Ave. in an I-2 (Heavy Industrial) zone. APN: 406-08-002L. Applicant: Happy Jack Lodge L.L.C. Agent: Michael Mongini.

Director Gehlert explained the purpose of the Conditional Use Permit and noted that the use had been "fairly inactive" since the first approval. He said the agent, Michael Mongini, expressed to the City that he no longer needed the permit and planned to withdraw. Staff recommended voiding the permit.

Throughout the hearing, Darold Smith

- Questioned what had changed since December
- Wanted confirmation that voiding the permit meant Mr. Mongini would have to come back for a brand new permit if he resumed the operation
- Said he would like the lease to say it [the property] should be developed in accordance with the original lease, which he said was intended to create economic development and jobs.

Director Gehlert said he did not know what changed but a new permit would be required to resume the aggregate materials processing. He noted this was located on five acres of a larger property owned by the City of Cottonwood and leased to Mr. Mongini. Mr. Mongini had no concrete plans for the site other than the processing of materials that occurred. Gehlert said

- He anticipated a conversation between Mr. Mongini and the City Council regarding the future uses of this portion of the city-owned property
- The master plan for the airport recommended a taxiway along that side of the airport
- There was consensus that the grade of the property would eventually be lowered to coincide with the grade at the airport
- However, there was no development plan to demonstrate lowering the grade and the City had no plan for those properties other than the airport plans.

Richard Kevin said the Commission requested at a previous meeting that a communication go to the City Council asking if the Council wanted to take a stand on the use of this property. Director Gehlert said that issue had not made the Council agenda. Kevin expressed belief that Council's intent in leasing the land so inexpensively was to convey certain benefits to the community by the developer. Kevin wondered if City Council wanted the Commission to insure that a development plan showing those attributes was developed by whoever used that land. Gehlert said his suggestion to the City Manager was to point this at the City Council and find out what their approach would be.

*Motion: To send to City Council for a definitive answer about how they want that project developed so it is on the books for the future.*

*Made by: Smith*

*Second: Kevin*

*Director Gehlert called a point of procedure. He explained that the agenda concerned the review of Conditional Use Permit 07-037 for an aggregate materials processing site and they should deal with the conditional use permit before concluding the above motion. He also noted that the motion begun by Darold Smith was not part of the agenda.*

Chair Kiyler invited comments from the public beginning with Karl Priggee.

Priggee said he operated the Red Rocks Skydiving jump zone at the airport next to the five-acre parcel under consideration. He detailed damage to parachutes, which he said was caused by debris from the blowing dust of the aggregate materials processing. The damage significantly shortened the life of the \$4,000 parachutes. For the last several

years, they made Cottonwood a destination for people from all over the world and the United States to enjoy the red rocks and to sky dive. He said the increased expense caused by damage to the parachutes could create a problem for his operation.

Dr. Bob Richards asked if the communication by Mr. Mongini about withdrawal of the permit was written or verbal. Director Gehlert said it was in writing but he did not receive it in time to place it in the packets. Dr. Richards asked him to read the letter into the record. Gehlert apologized that he did not have the letter with him. He said it was about two sentences long asking that the permit be withdrawn.

Chair Kiyler closed the floor to the public and opened it to the commissioners.

Raymond Cox said if Mr. Mongini terminated the activity and asked that the permit be withdrawn; it was straightforward and they could void it. There was no further comment from the Commission.

**Motion:** *To follow staff recommendation to void PCU 07-037.*  
**Moved by:** *Gonzales*  
**Second:** *Smith*  
**Vote:** *Unanimous approval.*

Chair Kiyler returned to the previous motion that was still on the floor.

Darold Smith loosely restated his previous motion saying he was not sure how to word it.

**Motion:** *To send this to City Council for their direction – how they want this property used – so that it is in writing 5-10 years down the road and everybody knows exactly how it is to be used.*  
**Made by:** *Smith*

Chair Kiyler suggested asking staff to prepare a letter to Council and to bring it to the Commission at the next meeting for review. Several members expressed agreement.

Chair Kiyler called for a second to Smith's motion.

**Second:** *Cox*

Diane Lovett asked for clarification about what they were asking staff to do. Kiyler said they were questioning Council's intent. Lovett asked if it was for all the property and Kiyler replied that it was for the entire 65 acres.

Director Gehlert asked for confirmation that the Commission's concern was having a coordinated approach to planning the 65 acres but the use permit only addressed 5 acres at the terminus of Happy Jack Way, which is coincidentally alongside the airport. Gehlert said staff anticipated discussion in the near future involving that vicinity of this acreage and what the future uses should be. He planned to encourage a preliminary site plan that would discuss lot configuration, orientation, access routes, and drainage corridors as a means for establishing the footprint. He repeated his expectation that the

grade in that area would be lowered to make it more useful in tandem with the airport. The grade and elevation of the property would influence the future development.

Richard Kevin suggested this was an excellent item for incorporation into the General Plan. Kiyler agreed.

Mr. Priggee returned to the lectern. He noted that the Airport Master Plan had designs on the same land.

Chair Kiyler asked Smith to restate his motion. Director Gehlert suggested commencing discussion with the Council as a follow-up to the review so they stayed on course with the agenda. Kiyler agreed but said he was bothered because the request was made in December and nothing came of it. Director Gehlert explained that those types of things usually end up on a work session agenda. The next one would be May 14. They could possibly attach something to that agenda. However, the City Manager sets the agenda.

Raymond Cox questioned if there was some way to break the lease for non-performance since the lessee had done little with the property in seventeen years. Director Gehlert said the airport lease agreements had been under review for several months by Mr. Oliphant. The City Attorney had not had that depth of involvement but would be looking at it closely in the months ahead.

Chair Kiyler asked Darold Smith if he wanted to withdraw his motion. Smith agreed if everything would get to City Council. Director Gehlert repeated that a request to be on a Council agenda would go through the City Manager. Smith asked how the Commission communicates with City Council. Gehlert said through quarterly joint sessions like the one held the previous week. Smith said quarterly was excessively long.

*Darold Smith withdrew his motion.*

Director Gehlert said he would prepare a formal memo to the City Manager.

2. **PCU 08-002-A1 (Amendment)** Consideration of a request by Minerals Research for an amendment to PCU 08-002 in order to re-define the truck route for a process facility on a portion of 12.25 acres zoned CF and located on the Verde Valley Fair Association property north of Hwy. 89A between 6<sup>th</sup> and 12<sup>th</sup> Streets. Owner: Minerals Research & Recovery, Inc. Agent: Tom Hurkett.

***Director Gehlert announced that staff postponed PCU 08-002 due to an advertising error. He had spoken with the applicant and the applicant was ok with the postponement.***

3. **ZO 08-051** Amendments to the Cottonwood Zoning Ordinance pertaining to Section 201. Definitions regarding new definitions for various types of housing, including boarding house, bed and breakfast establishment, group home for the disabled, correctional transitional facility, and similar institutional housing types; and to Section 404 (General Provisions) adding procedures and standards for boarding house, correctional transitional facility, and bed and breakfast establishments.

4. Planner Scully presented the changes made to the proposed amendments since the last Commission review. The staff memo provided the background that generated the amendments, related Federal Housing legislation, new definitions proposed, and analysis of proposed amendments and procedural changes regarding:
  - a. Group Home Registration Requirements
  - b. Group Home for the Handicapped
  - c. Boarding House
  - d. Correctional Transitional Facility
  - e. Bed and Breakfast Facilities.

Scully read portions of the staff memo and provided further explanations about ways the proposals might work and about some of the limitations. He talked at length about the group home registration portion.

Scully said staff felt good about the Ordinance and thought it could go forward to the Council as a discussion item.

Director Gehlert said the intent was to address the variety of possibilities that were presented. Staff identified various types of lodging facilities and created definitions for them. The most problematic one was the care facility or group home where persons in recovery are entitled to live. Those people were exempted by the federal government and classified as disabled. Probationers in a halfway house situation had populated some of those homes. That did not fit with the exemption so staff characterized a Correctional/Transitional facility that would go in an industrial area with a use permit.

Scully said the registration process was another level intended to assure maintenance of the residential character of the neighborhood. That process would allow viewing the conditions and address the real issue - the impact on the neighborhood. Issues such as a pattern of nuisance and/or police calls, noise, disturbances, fighting, parking problems, trash, etc. could be documented through police reports showing a pattern of non-residential use. If that occurred, registration revocation would be warranted. Answering Darold Smith, Scully said the Zoning Ordinance states that the Zoning Administrator would handle revocation.

Scully said the spacing requirement assured that a neighborhood would not be overburdened by some other use.

Scully emphasized that staff used all the tools available and made a state of the art ordinance. He said it was the most advanced they could get; they worked on it two years; and he did not know how to go further without exposing the city to extreme liability.

A lengthy discussion followed Scully's presentation. Answers to Commissioners' questions, public comments, and Commissioners' comments are summarized below.

- Q. How would an inspector going in once a year certify that all the people coming and going throughout the year were qualified [as disabled].
  - A. Home operators would state that all residents met the Fair Housing Act (FHA) definition of disabled and the professional person or agency would certify that was true.

Q. Is that was the only way?

A. There was no state or federal licensing for those facilities and the FHA protected former substance abusers in an enormous way. Only one other city in Arizona (Pinetop-Lakeside) took it to this level of certification.

Q. Would the registration form apply to existing group/recovery homes?

A. That was a legal issue and the City Attorney was not present that evening. Staff believed it was possible they could say the existing homes do not meet the zoning because they have not registered and defined themselves as a legal use and because all they would be doing was validating an exemption.

Q. Would part of the registration be building safety inspections?

A. Some homes licensed by the state are required to do that but we have to make reasonable accommodations for the others

Q. Could we require a certain number of square feet per occupant?

A. Not for group homes unless you did it for every residence in the city.

Commission member comments:

- Diane Lovett said the registration requirement spotlighted their previous concerns and the whole thing looked much better. She believed the ordinance was in the parameters of the federal acts and said it was time to send it to the Council.
- Richard Kevin stated that the group homes for the handicapped that were dealing with people in recovery were not characterized, for the most part, by people who came out of jail. They have a particular place in a community. The people were attempting to recover even though not all of them are successful. They were relatively benign.
- Richard Kevin said that maybe some things that took place in Cottonwood colored opinions. He explained that in Phoenix people who were intoxicated were taken to a detoxification center. Many centers were almost a labor of love – a charity.
- Darold Smith said the problem in Cottonwood was the lack of charity regarding detoxification. The only option is jail. Kevin said there are people in AA who would deal with them [alcoholics].
- Darold Smith commended Scully's work and said he did not mean to be adversarial. However, this was his pet peeve.

Q. Is there a way to apply supervision to the persons in recovery?

A. If people chose to live together in a housekeeping unit where they were taking care of themselves, they fit the disabled definition. To define supervision for persons in recovery and not for ones in a wheel chair would apply a higher standard to one class of "disabled." Again, the language in the Fair Housing Act said you must change your rules to make things easier for those things to fit in.

Charlie Scully said that currently there are no standards for Bed and Breakfasts (B&B). Those were handled through use permits. Typically, they were where people have one or two bedrooms, the use fits into a neighborhood, but there might be extra cars. However, some people had an interest in larger ones. Other communities had a tiered approach because when you get into 4 or 5 bedrooms, it changes the residential character and it does not seem to fit in a residential neighborhood. Applying parking requirements restricts where B&Bs can go. In comparison, the group home legally functions as a

single-family residence. You could not single out group homes for parking requirements unless you tied parking into all single-family homes in the city. Group homes that are licensed by the state have different requirements.

Planner Scully said group homes for the disabled function legally as a single housekeeping unit - a family. The definition of family in the ordinance says you would not have more than ten people living in a group home. Scully said staff wanted to tie family into what a group home was. We would not want a 20-person recovery home in a neighborhood. The criterion is – if it changes the character of the neighborhood, you can regulate it. Defining a family was not easy.

Richard Kevin said he was confused by the #2 definition of family on page 10. Planner Scully said restricting the number of people living in a family was a major policy issue in places where there are large or extended families. He explained that the first definition allows any number of persons related by blood, marriage, or adoption to live together as a single housekeeping unit. The second definition limited groups of non-related persons living together to not more than ten persons.

Chair Kiyler invited comments from the public.

Terri Gage thanked staff and said it was an amazing job. Her questions and staff members' answers follow.

Q. Would a Correctional/Transitional (C/T) facility be required to register and be certified under the same rules as group homes?

A. Staff had discussed zoning clearances, which could double as registrations for those facilities. However, registration is somewhat different from a zoning clearance.

Q. Was there any wording to address exclusivity – such as, would the C/T facility be exclusively for people released from jail? Could a group home exclude people released from jail?

A. The definitions covered the exclusivity issue. The ordinance states you cannot be in the group home for the disabled if you are part of the list that does not qualify.

Q. If standards lapsed, would we be able to detect the change in status?

Q. Could the qualified third party receive a resident roster whenever changes occurred in the roster?

Dr. Bob Richards addressed the Commission next. He commented as follows.

- Boarding House regulations talk about parking, number of bedrooms, and occupancy. There was nothing regarding that under Group Homes. That should be clarified.
- Adult foster homes were allowed but there was no definition of an “adult” foster home.
- Bed and Breakfast Residence is allowed in R-1; Bed and Breakfast Inn is not but it is allowed in other zones. He did not understand the difference between the two. He also noted that the Bed and Breakfast Inn was for “rental” but there was no time stated for the “rental.” Therefore, he wondered if Bed and Breakfast Inn should go under one of the other categories.

- Make the number of people allowed to live in a house dependent on the number of square feet of the dwelling size.

Cox commented about the provision requiring applicants to notify property owners within 500 feet by First Class mail at their expense. He believed the requirement should be registered mail to provide proof of delivery so they [property owners] could not deny they received it. Cox said staff had done a good job so far but there were some things to be tightened up. Director Gehlert responded that the certified mail suggestion would only apply to Correctional/Transitional facilities, which require conditional use permits, are subject to public hearings, and would be in industrial zones. The other homes were exempted.

Diane Lovett asked if staff was satisfied with the ordinance. Planner Scully said they received good suggestions that evening that staff could work on and then take the ordinance to Council for discussion.

Chair Kiyler asked each Commission member for comments. There were several accolades for Mr. Scully's work.

**Motion:** *To package ZO 08-051 and forward to City Council.*  
**Moved by:** *Kevin*  
**Second:** *Lovett*  
**Vote:** *Unanimous approval.*

5. **ZO 08-026** Amendments to Section 407.Landscaping Requirements, including revised property development standards for landscaping and an updated plant and tree list to address appropriate low-water use plants for Cottonwood.<sup>3</sup>

Planner Scully said staff had not done much on this ordinance since the last meeting. He sent a draft ordinance to master gardeners and he and Commissioner Smith worked with the Arizona Botanical Garden. However, he needed additional professional input in his attempt to streamline the ordinance. He highlighted other information he needed and said this was a starting point. He said they need more technical information and then would look at it from a planning standpoint and the results they hope to achieve.

Ed Kiyler noted an error on the page headed "PROPOSED AMENDMENTS TO COTTONWOOD ZONING ORDINANCE" where editing comments should be removed.

Raymond Cox suggested adding permeable paving materials where it talks about rain catchment, etc. George Gehlert commented that it related to retention. Charlie Scully said they should encourage it but he was not sure they could require it. He suggested possible incentives, such as a reduction in retention area, based on planting areas. He said some water conservation matters might be better served on the website or in brochures (educational).

When no one from the public asked to comment, Chair Kiyler closed the floor to the public.



Comments from the Commission members were positive and they encouraged staff to continue working on the ordinance amendment.

Director Gehlert assured the Commission that they would have as much time as they needed to review the proposed ordinance. He said they had been working with a 2-page ordinance and all it addressed was plant counts and types. He made the following points.

- Intent was to enable comprehensive review of any outdoor site development
  - New code would apply to existing properties if they were redeveloped or added onto.
- Gehlert skimmed through the proposal and highlighted portions. He said they were light years ahead of where they had been. However, he was not sure of staff's ability to keep up with it and therefore was trying to simplify it.

*Update and discussion only. No action taken.*

6. **GP 08-063** Proposed bicycle plan

Director Gehlert introduced the item saying the bicycle plan was in progress for several months with Randy Victory, Dr. Bob Richards, and Planner Wes Ballew working steadily on it. He noted an updated bike route map in their packets and said they would upload the plan to the City website as part of the 60-day window of public response.

Chair Kiyler opened the floor to the public and invited Randy Victory to speak.

Victory noted there were some errors on the map and there was no place on the internet to comment. He requested that staff forward the link to him so he could send it to the Verde Valley Cyclists member list. He said it was a good job.

With no other comment from the public, Chair Kiyler closed the floor to the public and opened it to the Commission.

Diane Lovett acknowledged the cyclists' work on the plan but urged everyone to keep in mind the need for an urban trail system to serve hikers, mountain bikers, walkers, etc. She encouraged putting as much as possible with the bike plan to avoid duplicate efforts.

Other Commission members made complimentary statements about the work accomplished but had no other comments.

*Update and discussion only. No action taken.*

**NEW BUSINESS**

None.

## **DISCUSSION ITEMS**

1. Possible future work sessions – No discussion.
2. Departmental reports, such as Building Department and Code Enforcement reports.

Darold Smith inquired about the David Carl zoning enforcement case. Director Gehlert said there was nothing new. He understood they would send it back through the system.

## **Informational Reports and Updates**

Director Gehlert announced the following:

- Planning and Zoning items on the next night's Council agenda.
- March 26 training on Rental Maintenance Code. (Chair Kiyler requested an email with the times for the training.)
- Group Homes code amendment discussion would be on the Council agenda April 14.
- The April 20 Commission agenda would include the Minerals Resource and Recovery Conditional Use Permit review, the Landscape ordinance, and the first Design Review item for the Commission. That item would be review of a proposal for a new commercial plaza behind the Ming House and the Arco station. The agenda would also include an update on the Arizona Smart Growth Score Card.
- The May 14 Joint Session would be on land use and growth. Gehlert invited the Commission to let him know if they had items they wanted to discuss with the Council so he could have them put on the agenda.
- Commissioner Smith would be moving to the Council so staff would advertise another opening on the Commission. The appointment would probably occur in June.
- There was also an opening on the Board of Adjustment
- The Mayor and Council directed staff to resume their efforts on a Hillside and Slopes Ordinance.
- Gehlert promised to put together the memorandum on the airport properties that was discussed earlier in the meeting.

Chair Kiyler thanked Director Gehlert for the workshop he put on. Kiyler also publicly congratulated Darold Smith on his election to City Council.

Darold Smith inquired about the Freedom Auto Sales Conditional Use Permit at Main and Mingus and asked if the reason the property was not being used had to do with environmental concerns. Director Gehlert was not sure but thought there could be issues.

## **Adjournment**

*Chairperson Kiyler adjourned the meeting at 7:57 p.m.*

Minutes prepared by: Carol Hulse

Date Approved: April 20, 2009